

REMARKS

Claims 1-20 are pending in the present application.

Claims 1-20 have been rejected.

No claims have been allowed.

No claims have been amended herein.

Claims 1-20 remain in the present application.

Reconsideration of the claims is respectfully requested in view of the following arguments.

In Sections 2 and 3 of the February 2, 2004 Office Action, the Examiner rejected Claims 1, 2, 5-7, 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,223,028 to *Chang et al.* (hereafter, simply "*Chang*") in view of United States Patent No. 6,144,849 to *Nodoushani et al.* (hereafter, simply "*Nodoushani*"). In Section 4 of the February 2, 2004 Office Action, the Examiner rejected Claims 10, 16, 17 and 20 under 35 U.S.C. §103(a) as being unpatentable over the *Chang* and *Nodoushani* references in view of United States Patent No. 5,819,177 to *Vucetic et al.* (hereafter, simply "*Vucetic*"). In Section 5 of the February 2, 2004 Office Action, the Examiner rejected Claims 3, 4, 8, 9, 13-15, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over *Chang*, *Nodoushani* and *Vucetic* in view of United States Patent No. 6,314,282 to *Weber et al.* (hereafter, simply "*Weber*").

The Applicants respectfully disagree with the Examiner's rejection of Claims 1-20 of the present application and direct the Examiner's attention to Claim 1, which contains the unique and non-obvious limitations emphasized below:

1. For use in a wireless network comprising a plurality of base stations, each of said base stations capable of communicating with a plurality of mobile stations, a service provisioning system capable of provisioning a first one of said plurality of mobile stations comprising:

a database capable of storing a service provisioning file comprising a mobile station service provisioning program in interpreted byte-code format; and

a provisioning controller coupled to said database capable of receiving a notification indicating that said first mobile station is unprovisioned and further capable, in response to receipt of said notification, of retrieving said service provisioning file from said database and transmitting said service provisioning file to said first mobile station, wherein receipt of said service provisioning file causes said mobile station to automatically execute said mobile station service provisioning program in said service provisioning file, execution of said mobile station service provisioning program automatically provisioning said mobile station without further interaction from a service operator. (emphasis added)

The Applicants respectfully assert that the above-emphasized limitations are not disclosed, suggested, or even hinted at in the *Chang* reference, the *Nodoushani* reference, the *Vucetic* reference, or the *Weber* reference, or in any combination of two or more of these references.

The Examiner relied on the combination of the *Chang* reference and the *Nodoushani* reference in rejecting Claim 1 of the present application. The Examiner acknowledged that the *Chang* reference failed to disclose the Claim 1 limitation regarding “execution of said mobile station service provisioning program automatically provisioning said mobile station without further interaction from a service provider”. However, the Examiner asserted that this limitation is disclosed by the *Nodoushani* reference at column 4, lines 51-57.

The Applicants respectfully assert that the Examiner has misunderstood the limitation recited in Claim 1, or the device disclosed in the *Nodoushani* reference, or both. The Examiner appears to

have confused automating the service provisioning process in the mobile station with automating the service provisioning process in the phone network.

In rejecting Claim 1, the Examiner relied on column 4, lines 51-57, of the *Nodoushani* reference. The text of the *Nodoushani* reference at column 4 lines 43-57 states:

OTASP software 34 and MSC 16 (and in particular the computers associated therewith) are designed to support the IS-683 standard, allowing for OTA provisioning of a mobile telephone 26, as discussed in more detail below. A client program 38 includes a user interface for interacting with customer service representative, allowing the representative to control the provisioning process from the customer service station 44. Alternatively, client program 38 may be configured to include a voice response system and allow that provisioning can be conducted automatically in whole or in part, by automated interaction with a subscriber over the subscriber's mobile telephone 26 wherein a subscriber may enter selections using the keypad of the mobile telephone, or by voice commands interpreted by the client program 38.

The Applicant notes that the OTASP software 34 and the client program 38 discussed above are not located in, or executed by, the mobile station. Also, neither OTASP software 34 nor the client program 38 is transmitted from the network to the mobile station. The Applicants direct the Examiner's attention to Figure 2 of the *Nodoushani* reference, which clearly shows that OTASP software 34 resides on a server platform 32 in the phone network and the client program 38 resides in a service center 40 in the phone network.

Thus, the Claim 1 limitation regarding "retrieving [the] service provisioning file from [the] database and transmitting [the] service provisioning file to [the] first mobile station" is not shown. Also, the Claim 1 limitation that "receipt of [the] service provisioning file causes [the] mobile station to automatically execute [the] mobile station service provisioning program in [the] service

provisioning file” is not shown. Furthermore, the Claim 1 limitation that “execution of [the] mobile station service provisioning program automatically provisioning [the] mobile station without further interaction from a service operator” also is not shown.

The Applicants note that the client program 38 in the *Nodoushani* reference is the service operator. Thus, the user of the mobile telephone 26 in the *Nodoushani* reference must still interact with a service operator (albeit a machine service operator). The system disclosed in the *Nodoushani* reference at least partially automates the provisioning process in the phone network. However, like the *Chang* reference, the *Nodoushani* reference fails to disclose the Claim 1 limitations directed toward automating the provisioning process in the mobile station. Moreover, the *Vucetic* reference and the *Weber* reference fail to overcome the shortcomings of the *Chang* reference and the *Nodoushani* reference with respect to Claim 1.

In sum, independent Claim 1 recites unique and non-obvious limitations that are not disclosed, suggested or even hinted at in the *Chang* reference, the *Nodoushani* reference, the *Vucetic* reference, and the *Weber* reference, or in any combination of two or more of the *Chang*, *Nodoushani*, *Vucetic* and *Weber* references. This being the case, Claim 1 is patentable over the cited prior art references. Also, independent Claims 6, 11 and 16 recite limitations that are analogous to the unique and non-obvious limitations recited in independent Claim 1. This being the case, independent Claims 6, 11 and 16 also are patentable over the *Chang* reference, the *Nodoushani* reference, the *Vucetic* reference, and the *Weber* reference, or any combination thereof.

Finally, dependent Claims 2-5, which depend from independent Claim 1, dependent Claims 7-10, which depend from Claim 6, dependent Claims 12-15, which depend from Claim 11, and dependent Claims 17-20, which depend from Claim 16, contain all of the unique and non-obvious limitation recited in Claims 6, 11 and 16, respectively. This being the case, Claims 2-5, Claims 7-10, Claims 12-15, and Claims 17-20 are patentable over the *Chang* reference, the *Nodoushani* reference, the *Vucetic* reference, and the *Weber* reference, and any combination of two or more of the *Chang*, *Nodoushani*, *Vucetic* and *Weber* references.

SUMMARY


The Applicants respectfully request reconsideration and allowance of pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,
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